

AMENDED IN SENATE APRIL 13, 2010

AMENDED IN SENATE MARCH 24, 2010

SENATE BILL

No. 1394

Introduced by Senator Kehoe

February 19, 2010

An act to amend Section 22651 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1394, as amended, Kehoe. Vehicles: removal of unattended vehicles.

(1) Existing law authorizes a peace officer, as defined, or a regularly employed and salaried public employee, who is engaged in directing traffic or enforcing parking laws and regulations of a city, county, or jurisdiction of a state agency in which a vehicle is located, to remove and impound a vehicle located within the territorial limits in which the officer or employee may act, under specified circumstances. One of those circumstances authorizes the removal and impoundment of a vehicle when the vehicle is illegally parked so as to block the entrance to a private driveway.

This bill would instead authorize the removal or impoundment of a vehicle when the vehicle is parked so as to block the entrance to any driveway.

(2) Existing law authorizes the removal of a vehicle when the vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move the vehicle from in front of the fire hydrant to another point on the highway.

This bill would instead broaden this authority to allow for the removal or impoundment of a vehicle when a vehicle is illegally parked so as

to prevent access by an authorized emergency vehicle, as defined, or equipment associated with an authorized emergency vehicle, including a fire hydrant, to the scene of an emergency, and it is impracticable to move the vehicle to another point on the highway.

~~(3) Existing law authorizes the removal or impoundment of a vehicle when the person in charge of the vehicle is, by reason of physical injuries or illness, incapacitated to an extent so as to be unable to provide for custody or removal of the vehicle.~~

~~This bill would expand this authority to also allow for the removal and impoundment of the vehicle of a person who has a cognitive impairment to the extent that the person is unable to provide for the custody or removal of the vehicle.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22651 of the Vehicle Code is amended
2 to read:

3 22651. A peace officer, as defined in Chapter 4.5 (commencing
4 with Section 830) of Title 3 of Part 2 of the Penal Code, or a
5 regularly employed and salaried employee, who is engaged in
6 directing traffic or enforcing parking laws and regulations, of a
7 city, county, or jurisdiction of a state agency in which a vehicle is
8 located, may remove a vehicle located within the territorial limits
9 in which the officer or employee may act, under the following
10 circumstances:

11 (a) When a vehicle is left unattended upon a bridge, viaduct, or
12 causeway or in a tube or tunnel where the vehicle constitutes an
13 obstruction to traffic.

14 (b) When a vehicle is parked or left standing upon a highway
15 in a position so as to obstruct the normal movement of traffic or
16 in a condition so as to create a hazard to other traffic upon the
17 highway.

18 (c) When a vehicle is found upon a highway or public land and
19 a report has previously been made that the vehicle is stolen or a
20 complaint has been filed and a warrant thereon is issued charging
21 that the vehicle was embezzled.

1 (d) When a vehicle is illegally parked so as to block the entrance
2 to a driveway and it is impractical to move the vehicle from in
3 front of the driveway to another point on the highway.

4 (e) When a vehicle is illegally parked so as to prevent access
5 by an authorized emergency vehicle, as defined in Section 165, or
6 equipment associated with an authorized emergency vehicle,
7 including a fire hydrant, to the scene of an emergency, and it is
8 impracticable to move the vehicle to another point on the highway.

9 (f) When a vehicle, except highway maintenance or construction
10 equipment, is stopped, parked, or left standing for more than four
11 hours upon the right-of-way of a freeway that has full control of
12 access and no crossings at grade and the driver, if present, cannot
13 move the vehicle under its own power.

14 (g) When the person in charge of a vehicle upon a highway or
15 public land is, by reason of physical injuries, ~~cognitive impairment~~,
16 or illness, incapacitated to an extent so as to be unable to provide
17 for its custody or removal.

18 (h) (1) When an officer arrests a person driving or in control
19 of a vehicle for an alleged offense and the officer is, by this code
20 or other law, required or permitted to take, and does take, the
21 person into custody.

22 (2) When an officer serves a notice of an order of suspension
23 or revocation pursuant to Section 13388 or 13389.

24 (i) (1) When a vehicle, other than a rented vehicle, is found
25 upon a highway or public land, or is removed pursuant to this code,
26 and it is known that the vehicle has been issued five or more notices
27 of parking violations to which the owner or person in control of
28 the vehicle has not responded within 21 calendar days of notice
29 of citation issuance or citation issuance or 14 calendar days of the
30 mailing of a notice of delinquent parking violation to the agency
31 responsible for processing notices of parking violations, or the
32 registered owner of the vehicle is known to have been issued five
33 or more notices for failure to pay or failure to appear in court for
34 traffic violations for which a certificate has not been issued by the
35 magistrate or clerk of the court hearing the case showing that the
36 case has been adjudicated or concerning which the registered
37 owner's record has not been cleared pursuant to Chapter 6
38 (commencing with Section 41500) of Division 17, the vehicle may
39 be impounded until that person furnishes to the impounding law
40 enforcement agency all of the following:

1 (A) Evidence of his or her identity.

2 (B) An address within this state at which he or she can be
3 located.

4 (C) Satisfactory evidence that all parking penalties due for the
5 vehicle and all other vehicles registered to the registered owner of
6 the impounded vehicle, and all traffic violations of the registered
7 owner, have been cleared.

8 (2) The requirements in subparagraph (C) of paragraph (1) shall
9 be fully enforced by the impounding law enforcement agency on
10 and after the time that the Department of Motor Vehicles is able
11 to provide access to the necessary records.

12 (3) A notice of parking violation issued for an unlawfully parked
13 vehicle shall be accompanied by a warning that repeated violations
14 may result in the impounding of the vehicle. In lieu of furnishing
15 satisfactory evidence that the full amount of parking penalties or
16 bail has been deposited, that person may demand to be taken
17 without unnecessary delay before a magistrate, for traffic offenses,
18 or a hearing examiner, for parking offenses, within the county in
19 which the offenses charged are alleged to have been committed
20 and who has jurisdiction of the offenses and is nearest or most
21 accessible with reference to the place where the vehicle is
22 impounded. Evidence of current registration shall be produced
23 after a vehicle has been impounded, or, at the discretion of the
24 impounding law enforcement agency, a notice to appear for
25 violation of subdivision (a) of Section 4000 shall be issued to that
26 person.

27 (4) A vehicle shall be released to the legal owner, as defined in
28 Section 370, if the legal owner does all of the following:

29 (A) Pays the cost of towing and storing the vehicle.

30 (B) Submits evidence of payment of fees as provided in Section
31 9561.

32 (C) Completes an affidavit in a form acceptable to the
33 impounding law enforcement agency stating that the vehicle was
34 not in possession of the legal owner at the time of occurrence of
35 the offenses relating to standing or parking. A vehicle released to
36 a legal owner under this subdivision is a repossessed vehicle for
37 purposes of disposition or sale. The impounding agency shall have
38 a lien on any surplus that remains upon sale of the vehicle to which
39 the registered owner is or may be entitled, as security for the full
40 amount of the parking penalties for all notices of parking violations

1 issued for the vehicle and for all local administrative charges
2 imposed pursuant to Section 22850.5. The legal owner shall
3 promptly remit to, and deposit with, the agency responsible for
4 processing notices of parking violations from that surplus, on
5 receipt of that surplus, the full amount of the parking penalties for
6 all notices of parking violations issued for the vehicle and for all
7 local administrative charges imposed pursuant to Section 22850.5.

8 (5) The impounding agency that has a lien on the surplus that
9 remains upon the sale of a vehicle to which a registered owner is
10 entitled pursuant to paragraph (4) has a deficiency claim against
11 the registered owner for the full amount of the parking penalties
12 for all notices of parking violations issued for the vehicle and for
13 all local administrative charges imposed pursuant to Section
14 22850.5, less the amount received from the sale of the vehicle.

15 (j) When a vehicle is found illegally parked and there are no
16 license plates or other evidence of registration displayed, the
17 vehicle may be impounded until the owner or person in control of
18 the vehicle furnishes the impounding law enforcement agency
19 evidence of his or her identity and an address within this state at
20 which he or she can be located.

21 (k) When a vehicle is parked or left standing upon a highway
22 for 72 or more consecutive hours in violation of a local ordinance
23 authorizing removal.

24 (l) When a vehicle is illegally parked on a highway in violation
25 of a local ordinance forbidding standing or parking and the use of
26 a highway, or a portion thereof, is necessary for the cleaning,
27 repair, or construction of the highway, or for the installation of
28 underground utilities, and signs giving notice that the vehicle may
29 be removed are erected or placed at least 24 hours prior to the
30 removal by a local authority pursuant to the ordinance.

31 (m) Where the use of the highway, or a portion of the highway,
32 is authorized by a local authority for a purpose other than the
33 normal flow of traffic or for the movement of equipment, articles,
34 or structures of unusual size, and the parking of a vehicle would
35 prohibit or interfere with that use or movement, and signs giving
36 notice that the vehicle may be removed are erected or placed at
37 least 24 hours prior to the removal by a local authority pursuant
38 to the ordinance.

39 (n) When a vehicle is parked or left standing where local
40 authorities, by resolution or ordinance, have prohibited parking

1 and have authorized the removal of vehicles. A vehicle shall not
2 be removed unless signs are posted giving notice of the removal.

3 (o) (1) When a vehicle is found or operated upon a highway,
4 public land, or an offstreet parking facility under the following
5 circumstances:

6 (A) With a registration expiration date in excess of six months
7 before the date it is found or operated on the highway, public lands,
8 or the offstreet parking facility.

9 (B) Displaying in, or upon, the vehicle, a registration card,
10 identification card, temporary receipt, license plate, special plate,
11 registration sticker, device issued pursuant to Section 4853, or
12 permit that was not issued for that vehicle, or is not otherwise
13 lawfully used on that vehicle under this code.

14 (C) Displaying in, or upon, the vehicle, an altered, forged,
15 counterfeit, or falsified registration card, identification card,
16 temporary receipt, license plate, special plate, registration sticker,
17 device issued pursuant to Section 4853, or permit.

18 (2) When a vehicle described in paragraph (1) is occupied, only
19 a peace officer, as defined in Chapter 4.5 (commencing with
20 Section 830) of Title 3 of Part 2 of the Penal Code, may remove
21 the vehicle.

22 (3) For the purposes of this subdivision, the vehicle shall be
23 released to the owner or person in control of the vehicle only after
24 the owner or person furnishes the storing law enforcement agency
25 with proof of current registration and a currently valid driver's
26 license to operate the vehicle.

27 (4) As used in this subdivision, "offstreet parking facility" means
28 an offstreet facility held open for use by the public for parking
29 vehicles and includes a publicly owned facility for offstreet
30 parking, and a privately owned facility for offstreet parking if a
31 fee is not charged for the privilege to park and it is held open for
32 the common public use of retail customers.

33 (p) When the peace officer issues the driver of a vehicle a notice
34 to appear for a violation of Section 12500, 14601, 14601.1,
35 14601.2, 14601.3, 14601.4, 14601.5, or 14604 and the vehicle is
36 not impounded pursuant to Section 22655.5. A vehicle so removed
37 from the highway or public land, or from private property after
38 having been on a highway or public land, shall not be released to
39 the registered owner or his or her agent, except upon presentation
40 of the registered owner's or his or her agent's currently valid

1 driver's license to operate the vehicle and proof of current vehicle
2 registration, or upon order of a court.

3 (q) When a vehicle is parked for more than 24 hours on a portion
4 of highway that is located within the boundaries of a common
5 interest development, as defined in subdivision (c) of Section 1351
6 of the Civil Code, and signs, as required by paragraph (1) of
7 subdivision (a) of Section 22658 of this code, have been posted
8 on that portion of highway providing notice to drivers that vehicles
9 parked thereon for more than 24 hours will be removed at the
10 owner's expense, pursuant to a resolution or ordinance adopted
11 by the local authority.

12 (r) When a vehicle is illegally parked and blocks the movement
13 of a legally parked vehicle.

14 (s) (1) When a vehicle, except highway maintenance or
15 construction equipment, an authorized emergency vehicle, or a
16 vehicle that is properly permitted or otherwise authorized by the
17 Department of Transportation, is stopped, parked, or left standing
18 for more than eight hours within a roadside rest area or viewpoint.

19 (2) Notwithstanding paragraph (1), when a commercial motor
20 vehicle, as defined in paragraph (1) of subdivision (b) of Section
21 15210, is stopped, parked, or left standing for more than 10 hours
22 within a roadside rest area or viewpoint.

23 (3) For purposes of this subdivision, a roadside rest area or
24 viewpoint is a publicly maintained vehicle parking area, adjacent
25 to a highway, utilized for the convenient, safe stopping of a vehicle
26 to enable motorists to rest or to view the scenery. If two or more
27 roadside rest areas are located on opposite sides of the highway,
28 or upon the center divider, within seven miles of each other, then
29 that combination of rest areas is considered to be the same rest
30 area.

31 (t) When a peace officer issues a notice to appear for a violation
32 of Section 25279.

33 (u) When a peace officer issues a citation for a violation of
34 Section 11700 and the vehicle is being offered for sale.